

WORK OPPORTUNITY TAX CREDIT EMPLOYER GUIDE

The Employment Development Department (EDD) is the Work Opportunity Tax Credit certifying agency for California employers.

The Purpose of the Work Opportunity Tax Credit

The Small Business and Work Opportunity Tax Act of 2007 (P.L. 110-28) extended the Work Opportunity Tax Credit (WOTC) to August 31, 2011. The WOTC has two purposes:

- To promote the hiring of individuals who qualify as a member of a target group.
- To provide a federal tax credit to employers who hire these individuals.

When an employer hires an individual who meets the criteria for this program, they may be able to claim federal tax credits against wages paid.

Target Groups that Qualify for the WOTC

Individuals who are in one of the following nine target groups may qualify an employer for the WOTC:

- A. Recipient of Temporary Assistance to Needy Families.
- B. Veteran who is receiving Food Stamps, or a Disabled Veteran with a 10 percent or higher rating who:
 - is hired within 1 year of their discharge date, or
 - has been unemployed 6 months or more (whether or not consecutive) during the 1 year period prior to their hire date.
- C. Ex-Felon – must be hired no later than one year after conviction or release from prison for a felony.
- D. Designated Community Resident – age 18-39 year old resident of an Empowerment Zone (EZ), Renewal Community (RC) or Rural Renewal County (RRC).
- E. Vocational Rehabilitation referral.
- F. 16-17 year old resident of an EZ, Enterprise Communities (EC), or RRC, hired as a summer youth employee.
- G. 18-39 year old food stamp recipient.
- H. Supplemental Security Income recipient.
- I. Long-term family assistance recipient.

Federal Tax Credit Amounts and Retention Periods for Target Groups A through H

The employee must be retained 400 hours for a 40 percent tax credit on qualified first year wages up to \$6,000. For the employee that is retained at least 120 hours but less than 400 hours, a 25 percent credit is available on qualified first year wages up to \$6,000. The exception is qualified summer youth (target group F). The tax credit is based on qualified first year wages up to \$3,000.

The amount of “qualified wages” for disabled veterans is increased from \$6,000 to \$12,000.

Federal Tax Credit Amounts and Retention Period for Target Group I

Long-term family assistance recipients (target group I) provides for a tax credit of 40 percent on qualified first year wages up to \$10,000, and 50 percent on second year qualified wages up to \$10,000. The employee must be retained a minimum of 180 days or 400 hours. If the individual is certified as both a member of one of the WOTC target groups and a long-term family assistance recipient, the employer would be able to claim either the 40 percent of \$6,000 tax credit or the 40 percent of \$10,000 tax credit.

Applicable Tax Years, Carry Back, and Carry Forward

Employers may claim the Work Opportunity Tax Credit for one or two years, depending on the target group. Employers who do not take the full credit amount of the Work Opportunity Tax Credit because of the tax liability limitation may carry back the unused credit one year and carry forward the unused credit 20 years or until all the credit is used, whichever comes first.

Designating a WOTC Agent

If an employer wishes to authorize an intermediary, such as an accountancy firm or a management consultant, to act on your behalf in the WOTC certification process, they must provide to the EDD a notarized Power of Attorney. The Internal Revenue Service (IRS) Form 2848, Power of Attorney and Declaration of Employer Representative, may be used for this purpose. An acceptable equivalent document, is the EDD Tax Branch Form DE 48, Power of Attorney Declaration.

Determining Eligibility

The employer must first determine if the applicant is willing to provide the required information. Prospective employees are not required to provide information of this sort to an employer. Their participation must be voluntary. If the applicant is willing to provide the required information, have him/her complete the **Individual Characteristics Form, Work Opportunity Tax Credit, ETA 9061**. The Individual Characteristics Form, ETA 9061 must be completed on or before the applicant is offered employment.

Eligibility for Former Employees or Family Members

Employers may not request certification on former employees who have been rehired. The employee must have been WOTC-qualified and certified as such only the first time he/she was hired by the employer. No tax credit can be claimed for wages paid to relatives. The tax credit is not valid for: son or daughter, stepson or stepdaughter, brother or sister, stepbrother or stepsister, father or mother, stepfather or stepmother, niece or nephew, uncle or aunt, son-in-law or daughter-in-law, father-in-law or mother-in-law, brother-in-law or sister-in-law, descendants of any of the aforementioned, or if the employee resides in the home of the employer.

Requesting Certification

If the employer believes, based on the information provided on the Individual Characteristics Form, ETA 9061, that the job applicant meets the requirements for one or more target groups, **complete all items on the Pre-Screening Notice and Certification Request for the Work Opportunity Tax Credit, Form 8850**.

If the applicant has a **Conditional Certification, Work Opportunity Tax Credit, ETA 9062**, potential eligibility has already been determined by the EDD or a participating agency. You **do not** have to complete the Individual Characteristics Form, ETA 9061. Complete the employer portion of the Conditional Certification, ETA 9062 and submit it with the Form 8850.

Time Frame for Submitting the Form 8850

All such notices must be completed and signed under penalty of perjury by both the employer and applicant **ON OR BEFORE THE APPLICANT IS OFFERED EMPLOYMENT** and must indicate the applicant's eligibility for a target group(s). The Form 8850 must contain the employer's name and Federal Tax Identification number, and the name, Social Security number, employment hire date, and start date of the applicant for whom certification is requested. **THE FORMS MUST BE SUBMITTED TO THE WOTC CENTER NO LATER THAN THE 28TH DAY AFTER THE APPLICANT STARTS WORK.** Do **not** delay sending in the Form 8850.

The Form 8850, with the ETA 9061, (or the ETA 9062) attached, will serve as your request for a WOTC certification and must not show any evidence of tampering with the applicant's responses.

Mail forms to:

WOTC Center
2901 50th Street
Sacramento, CA 95817

The WOTC Certification

If the applicant meets all the criteria, the WOTC Center will send the employer a Work Opportunity Tax Credit Certification, DE 8727. If the Form 8850 is timely but incomplete, the WOTC Center will notify the employer by mail and request the additional information necessary for making the WOTC eligibility determination. Otherwise, the WOTC Center will send the employer a letter denying their request for certification and stating the reasons for the denial.

Records Retention

The WOTC records, including application, pertinent forms and supporting documentation, should be retained by the employer for five (5) years from the date of the written certification from the EDD. Revoked or denied certifications must be retained for at least one year, but longer if further action or an appeal is pending. This time period conforms to the IRS "record retention required" for employment taxes, which specifies that records be kept for four (4) years after employment taxes are due.

Requesting Assistance

For more information on WOTC, contact:

- WOTC Statewide Coordinator at 916-227-5153 or
- Sacramento WOTC Center, toll free at (866) 593-0173 or
- WOTC Web site on the Internet at:
http://www.edd.ca.gov/Jobs_and_Training/Work_Opportunity_Tax_Credit.htm

Forms are available through the Internet and the local EDD Workforce Services site.

Questions regarding how to claim the Work Opportunity Tax Credit on your federal income tax return should be directed to your regional office of the IRS.

Penalties and Reviews

There are some possible perjury penalties for misrepresentation. The law provides for a fine and/or imprisonment for making false statements or withholding facts. In addition, the EDD is required to take corrective action as appropriate for those employers or employees who misrepresent information on the WOTC forms. These actions may include, but are not limited to:

- Criminal action for perjury violations.
- Expansion of the eligibility audit for additional certifications issued to an employer.
- Increased documentation required for employers with high incidence of revoked certifications.

The EDD will perform monthly reviews of 10 percent of the certifications issued in the previous 30 days to verify WOTC eligibility of the employees claimed on the certifications. All certifications found to be invalid will be revoked. A notice of invalidation will be sent to the employer and the local regional office of the IRS explaining the reason for revocation.

Federal Empowerment Zones, Enterprise Communities, and Renewal Communities

Federal Empowerment Zones (EZ), Enterprise Communities (EC), Renewal Communities (RC) and Rural Renewal Counties (RRC). These designations refer to an area or combination of areas meeting certain population, size and poverty criteria. These areas can be characterized as having pervasive poverty, unemployment, and general distress.

California has a number of EZs and RCs. These include but are not limited to:

- Desert Communities
- Fresno
- Los Angeles
- Orange Grove
- Parlier
- San Diego
- San Francisco
- Santa Ana

At this time, California has no active ECs and RRCs.

Because only certain census tracts within a zip code area are in an EZ, EC, RC, or RRC, not every summer or high-risk youth who resides in the areas indicated above are eligible for WOTC Certification. For more information on EZ/RCs in California, or to look up an applicant's address within these areas, visit the Housing and Urban Development (HUD) Web site at http://egis.hud.gov/egis/cpd/rcezec/ezec_open.htm.

You may also link to the EZ/EC Web site through the EDD WOTC Web site.

If you do not have Internet connectivity, you may contact the HUD Information Center at 1-800-998-9999, and they will check the address for you.

EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Requests for services, aids, and/or alternate formats need to be made by calling 1-866-593-0173 (voice). TTY users, please call the California Relay Services at 711.